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Remarks

This Amendment is in response to the Office Action dated **December 13, 2006**. Claims 1-54 are pending in this application. Claims 15-34 and 39-54 have been withdrawn. The Office Action rejected claims 1-14 and 35-38 under 35 USC § 112, first paragraph; rejected claims 1, 2, 7, 13, 14, 35, 36 and 38 under 35 USC § 102 over Griffin (US 2004/0002752); rejected claims 3-6 and 8-11 under 35 USC § 103 over Griffin in view of Frantzen (US 5873907); and rejected claims 12 and 37 under 35 USC § 103 over Griffin.

By this Amendment, withdrawn claims 15-34 and 39-54 are cancelled and claim 35 is amended for clarification purposes only to correct a clerical error. Reconsideration in view of the above amendments and following remarks is requested.

Claim Rejections - 35 USC § 112

The Office Action rejected claims 1-14 and 35-38 under 35 USC § 112, first paragraph, alleging non-enablement. These rejections are traversed.

The text of the rejection focuses on the "intermediate deployment diameter" and "full deployment diameter" language recited in claims 8 and 9. The rejection does not discuss the subject matter of the other claims rejected under 35 USC § 112. Thus, a substantive rejection has only been presented with respect to claims 8 and 9, and Applicants request withdrawal of the rejection of claims 1-7, 10-14 and 35-38 under 35 USC § 112, first paragraph.

Applicants further assert that claims 8 and 9 are enabled by the original disclosure because a person of ordinary skill in the art could make the claimed invention without undue experimentation.

The test of enablement is whether one reasonably skilled in the art could make or use the invention from the disclosures in the patent coupled with information known in the art without undue experimentation. See *United States v. Teletronics, Inc.*, 857 F.2d 778, 785, 8 USPQ2d 1217, 1223 (Fed. Cir. 1988) (emphasis added). A patent need not teach, and preferably omits, what is well known in the art. *In re Buchner*, 929 F.2d 660, 661, 18 USPQ2d 1331, 1332 (Fed. Cir. 1991). The test of enablement is not whether any experimentation is necessary, but whether, if experimentation is necessary, it is undue. *In re Angstadt*, 537 F.2d 498, 504, 190 USPQ 214, 219 (CCPA 1976).

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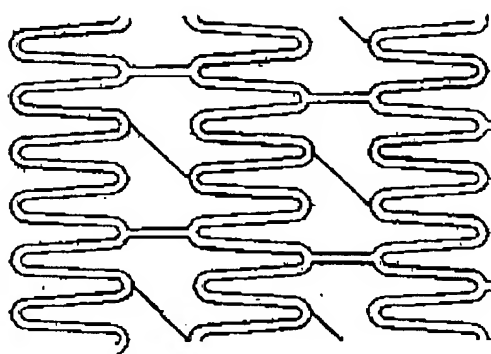
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Claim 8 is directed to a stent that self-expands to an intermediate diameter and is restrained against further expansion by at least one disengagable connector strut. Claim 9 depends from claim 8 and further requires the stent to self-expand to a full diameter upon disengagement of the disengagable connector strut(s).

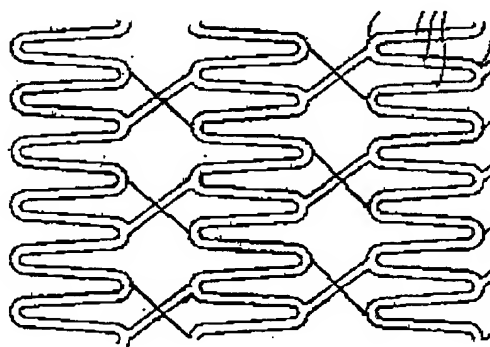
The specification discusses the claimed embodiments, for example, at page 7, lines 5-11. The specification further discusses forces placed on the disengagable connector struts by self-expanding forces of a self-expanding stent at page 7, lines 25-30. Thus, it is clear that some embodiments of a disengagable connector strut can prevent self-expansion of a stent.

A person of ordinary skill in the art would recognize that, in a self-expanding stent, two arbitrary points may move with respect to one another during stent expansion. If the two points were constrained against movement with respect to one another, the self-expansion capability of the stent could be hindered. Therefore, a person of ordinary skill in the art would recognize that a disengagable connector strut that connects between two points that must move with respect to one another during expansion could limit expansion as recited in claim 8. Until the disengagable connector strut is disengaged, it prevents movement of said two points with respect to one another. Upon disengagement, the two points become free to move according to the self-expansion characteristics of the stent.

Examples are shown below of stent patterns having disengagable connector struts that would limit expansion as specified in claims 8 and 9.



Example 1



Example 2

Example 1 is a modification of Figure 1, wherein two longitudinally oriented disengagable connector struts are replaced by a single diagonal disengagable connector strut at a

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plurality of locations. Example 2 is a modification of Figure 2, wherein the disengagable connector struts are repositioned from extending parallel to the permanent connector struts to extending across the permanent connector struts. A person of ordinary skill in the art would recognize that either stent pattern would provide a stent meeting the limitations of claims 8 and 9.

Therefore, Applicants assert that the invention of claims 8 and 9 could be made by a person of ordinary skill in the art without undue experimentation, and that the enablement requirement has been satisfied. Accordingly, Applicants request withdrawal of the rejections under 35 USC § 112.

Claim Rejections – 35 USC § 102

The Office Action rejects claims 1, 2, 7, 13, 14, 35, 36 and 38 under 35 USC § 102 over Griffin. These rejections are traversed.

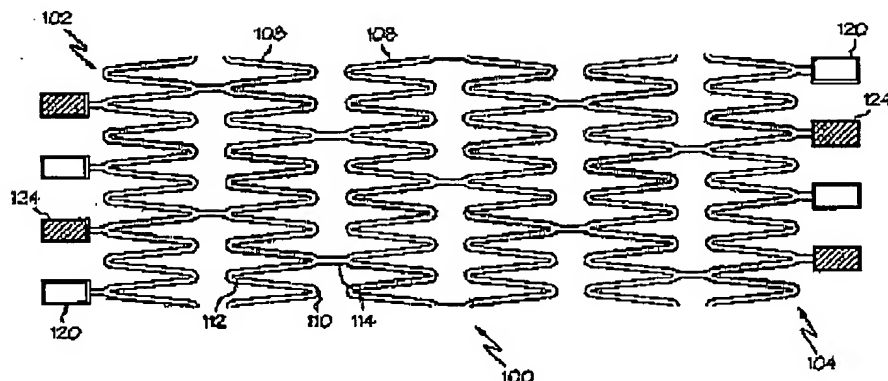
Independent claim 1 requires adjacent serpentine bands to be “connected to one another by at least one disengagable connector strut which may be disengaged by electrolytic detachment.” Independent claim 35 similarly requires “a disengagable connector strut connecting the first serpentine band to the second serpentine band.”

Griffin teaches a sacrificial anode stent system having a stent 100 and a vaso-occlusive device such as a detachable coil 200. See paragraph 0035. The coil 200 may be a cathode with respect to the metal that forms the stent 100, which renders the stent 100 susceptible to electrolytic or galvanic corrosion when in contact with the coil 200 in an electrolytic solution. See paragraph 0044. “To avoid undesirable corrosion of the stent 100 proximate to the coil 200, the stent is provided with sacrificial anode portions 120.” See paragraph 0045.

Figure 2 of Griffin, provided below, shows an embodiment of a stent having sacrificial anode portions 120 located at the ends of the stent. See also paragraph 0046.

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Griffin does not disclose or suggest a detachable portion that connects between two of the adjacent undulating bands 108, as required by rejected claims 1 and 35. Therefore, Applicants assert that claims 1 and 35 are not anticipated by Griffin.

The Office Action asserts that the claimed "disengagable connector strut" is disclosed at paragraph 0047. See Office Action at page 3.

The cited paragraph states, "The sacrificial anode portion 120 in another embodiment may be engaged to the stent 100 at any desired location *so long as the corrosion/disintegration of the sacrificial anode portion 120 does not adversely affect the structural integrity of the stent 100....*" See paragraph 0047 (emphasis added).

Thus, it is clear that the sacrificial anode portion 120 of Griffin is intended to be non-structural. Conversely, claims 1 and 35 are directed to a stent wherein the detachable portion is a strut, and therefore a portion of the stent structural framework. Even if a Griffin connector 114 were made the sacrificial anode portion 120, for example by metal plating the connector 114 – see paragraph 0048, the connector 114 would not disengage when the anode is sacrificed.

Therefore, Applicants assert that independent claims 1 and 35 are patentable over Griffin under 35 USC § 102. Each rejected dependent claim is patentable over Griffin for at least the reasons discussed with respect to the independent claim from which it depends. Accordingly, Applicants request withdrawal of the rejections under 35 USC § 102.

Claim Rejections – 35 USC § 103 (Griffin and Frantzen)

The Office Action rejected claims 3-6 and 8-11 under 35 USC § 103 over Griffin

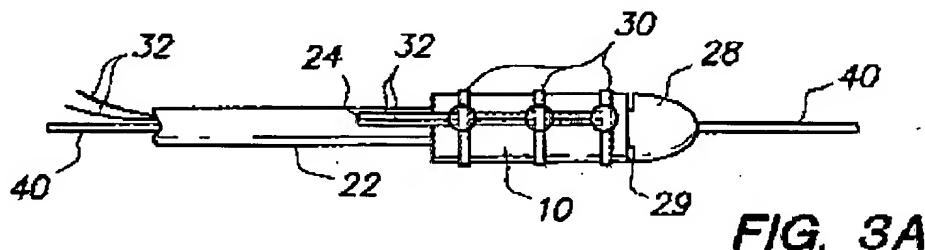
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in view of Frantzen. These rejections are traversed.

The rejections cite to Frantzen for teaching an electrical lead. See Office Action page 5.

Frantzen teaches a stent delivery system wherein electrical leads 32 are connected to binding straps 30 that constrain a stent 10 to a contracted delivery diameter. See Fig 3A, provided below, and column 3, lines 31-36 and 46-60. When current is supplied to the leads 32, the binding straps 30 rupture and the stent expands. See column 4, lines 45-60.



Rejected claims 3-6 and 8-11 all depend from claim 1. In the above section discussing rejections under 35 USC § 102, Applicants have asserted that Griffin does not disclose or suggest a “disengagable connector strut” as recited in claim 1.

Frantzen does not disclose or suggest a stent having a “disengagable connector strut” meeting the limitations of claim 1. Frantzen further does not provide any teaching that would motivate a person of ordinary skill in the art to modify Griffin in a way that would result in a stent meeting the limitations of claim 1. Therefore, Applicants assert that the combination of Griffin and Frantzen fails to present a *prima facie* case of obviousness with respect to claim 1 or rejected dependent claims 3-6 and 8-11. Accordingly, Applicants request withdrawal of the rejections under 35 USC § 103 over Griffin in view of Frantzen.

Claim Rejections – 35 USC § 103 (Griffin)

The Office Action rejected claims 12 and 37 under 35 USC § 103 over Griffin. These rejections are traversed.

Claim 12 depends from independent claim 1, and claim 37 depends from independent claim 35. In the above section discussing rejections under 35 USC § 102, Applicants have asserted that Griffin does not disclose or suggest a “disengagable connector

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strut" as recited in claims 1 and 35.

The rejection does not cite to any prior art teaching that would motivate a person of ordinary skill in the art to modify Griffin in a way that would arrive at a stent meeting the limitations of claims 1 or 35. The rejection further does not cite to any prior art teaching of a "necked portion" as recited in claim 12. Therefore, Applicants assert that Griffin fails to present a *prima facie* case of obviousness with respect to independent claims 1 and 35, or rejected dependent claims 12 and 37. Accordingly, Applicants request withdrawal of the rejections under 35 USC § 103 over Griffin

Extrinsic Evidence/Affidavit Request

To the extent that the Examiner has relied on extrinsic evidence in supporting the rejections, Applicants request that such evidence be provided with any subsequent rejection. To the extent that any rejections are based upon 'information' within the personal knowledge of the Examiner, Applicants hereby request that the Examiner either support the rejections with an affidavit in accordance with 37 CFR § 1.104(d)(2), or withdraw the rejections.

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Conclusion

Based on at least the foregoing amendments and remarks, Applicants respectfully submit this application is in condition for allowance. Favorable consideration and prompt allowance of claims 1-14 and 35-37 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the telephone number listed below.

Respectfully submitted,

VIDAS, ARRETT & STEINKRAUS

Date: February 23, 2007

By: _____

Jeremy G. Laabs

Registration No.: 53170

6109 Blue Circle Drive, Suite 2000
Minnetonka, MN 55343-9185
Telephone: (952) 563-3000
Facsimile: (952) 563-3001

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